

## REMARKS

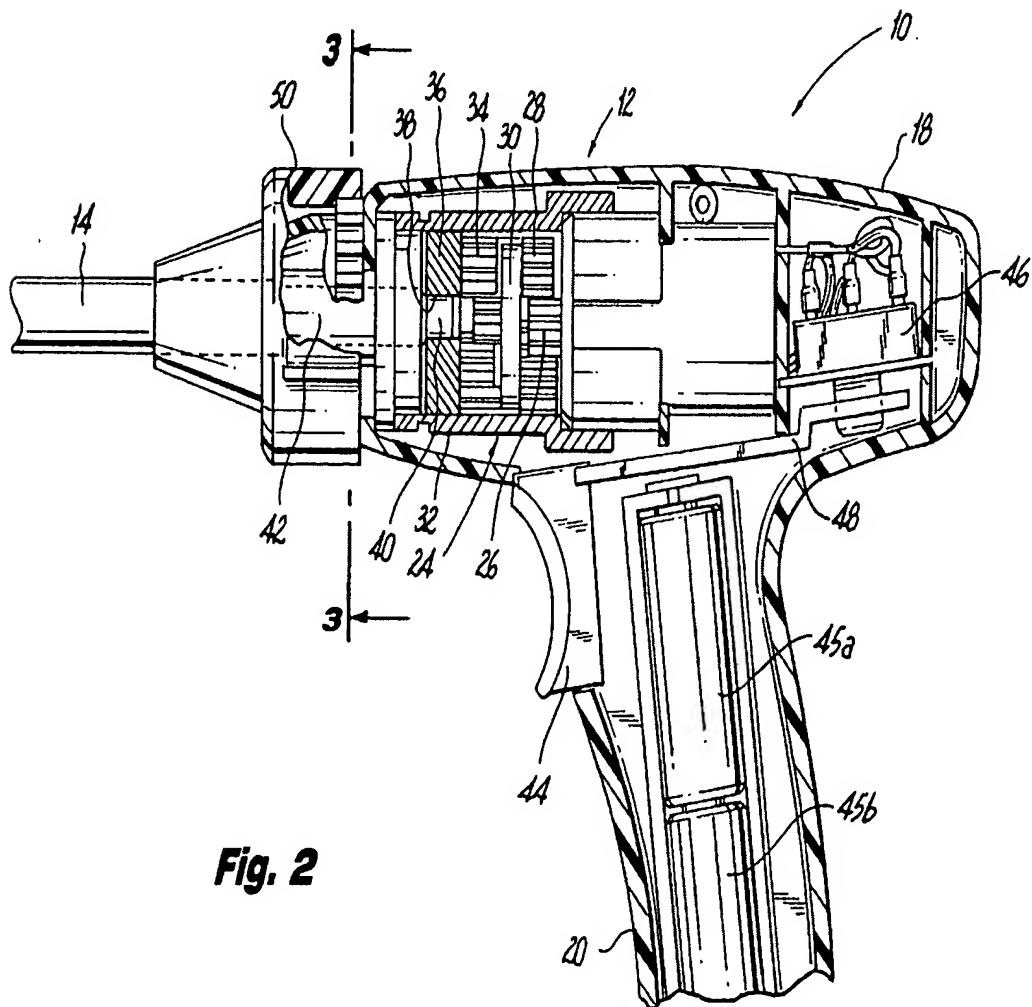
This application has been reviewed in view of the Office Action mailed on August 22, 2006. Claims 1-9 are pending in the application with Claims 1 and 19 being in independent form. By the present Amendment, Claim 1 has been amended in part and Claim 19 has been added. No new matter is believed to be introduced by the amendments.

In the Office Action, it was provided that Claims 10-18 were withdrawn from further consideration. The present listing of claims reflects this withdrawal.

Claims 1-9 stand rejected under 35 USC § 102(b) as being anticipated by U.S. Patent No. 5,954,259 to Viola et al. (hereinafter Viola). It is respectfully submitted that the present invention as claimed is patentably distinguishable over Viola. With regard to independent Claim 1, Viola fails to teach, disclose or suggest “an adapter yoke which translates *within said housing* upon actuation of said clamping handle, said adapter yoke mechanically cooperating with a lead screw disposed within said housing,” or “rotat[ing] said lead screw *within the housing* to advance a roll nut distally along said lead screw to force a firing piston into a tool assembly,” as recited. In contrast, the housing (“handle portion 12” shown below in FIG. 2) disclosed in Viola includes “*a motor assembly 22 having an output shaft and including a gear set 24 for reducing the rotational speed of the output shaft and increasing the torque delivered by the motor assembly.*” (column 4, lines 21-25). Thus, the elements in Viola identified in the Office Action as an adapter yoke (76), a lead screw (78), and a roll nut (94) are not included within the housing of the device in Viola but, rather, are disclosed within the “cartridge assembly 16, [which] is configured as a separate unit.” Specifically, the cartridge assembly includes, *inter alia*, “*a cartridge coupling 76 [c]onfigured to connect at its distal end to the proximal end of an axial drive screw 78,*” and a

“follower nut 94 [t]hreadably associated with drive screw 78.” Even if it were considered that the above identified elements in Viola performed some actuating function, Viola does not teach or suggest that these elements operatively translate within the housing. With reference to Fig. 2 below, Viola describes in detail the housing (or “handle portion 12”) of the disclosed device as follows:

the handle portion 12 of surgical apparatus 10, composed of two housing halves, includes an elongated barrel section 18 and a handle gripping section 20. A motor assembly 22 having an output shaft (not shown) is disposed within the barrel section 18 and includes a gear set 24 for reducing the rotational speed of the output shaft and increasing the torque delivered by the motor assembly. Gear set 24 includes a pinion gear 26 which is directly driven by the output shaft of motor assembly 22. Pinion gear 26 drives a first set of planetary gears 28 which are supported on a carrier 30. The pinion portion of carrier 30 then drives the second set of planetary gears 34 which in turn drives the hub member 36.



Thus, it can readily be appreciated from the discussion above in conjunction with FIG. 2 that the housing of Applicant's device is clearly different in arrangement and, therefore, the process of actuating and/or firing Applicant's tool assembly is necessarily different. Accordingly, in view of the foregoing, withdrawal of this rejection is respectfully requested.

In the Office Action, Claims 2 and 5-7 were rejected under 35 U.S.C. §103(a) as being unpatentable over Viola in view of U.S. Patent Application No. 2002/0096550 to Green et al. Applicants contend that, for at least the reasons discussed above, this obviousness rejection has been overcome. Moreover, as asserted in the Office Action, Viola does not disclose that drive assembly is pneumatic powered. However, the Office Action attempts to cure the above deficiency by asserting that employing a pneumatic drive assembly in place of electrical or hydraulic drive assembly is old and well known. Applicant's respectfully invite the Examiner to introduce relevant art in Applicant's field of endeavor, i.e., surgical staplers, in support of this assertion.

In the Office Action, Claims 3 and 4 were rejected under 35 U.S.C. §103(a) as being unpatentable over Viola. Applicants contend that, for at least the reasons discussed above, this obviousness rejection has been overcome. Moreover, as asserted in the Office Action, Viola does not disclose that the drive assembly is selectively variable to regulate the speed at which the surgical fasteners are deformed, and the stapler comprises a pressure sensitive trigger. However, the Office Action attempts to cure the above deficiency by asserting that using a drive assembly that is selectively variable to regulate the speed at which the surgical fasteners are deformed, and the stapler comprises a pressure sensitive trigger is old and well known. Applicant's respectfully

invite the Examiner to introduce relevant art in Applicant's field of endeavor, i.e., surgical staplers, in support of this assertion.

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims presently pending in the application, namely Claims 1-9 and 19, are believed to be in condition for allowance.

If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, the Examiner is requested to call the Applicants' undersigned attorney at the Examiner's convenience.

Respectfully submitted,



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Edward C. Meagher  
Reg. No. 41,189  
Attorney for Applicants

**Carter, DeLuca, Farrell & Schmidt, LLP**  
445 Broad Hollow Road  
Suite 225  
Melville, New York 11747  
Tel.: (631) 501-5700  
Fax: (631) 501-3526

**Mailing Address:**  
Chief Patent Counsel  
UNITED STATES SURGICAL  
Division of Tyco Healthcare Group LP  
195 McDermott Road  
North Haven, CT 06473  
(203) 492-8193